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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,265	08/05/2003	Scott Charles McCartney	16367-US	7061

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EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT PAPER NUMBER

3671

DATE MAILED: 05/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/634,265	<b>Applicant(s)</b> MCCARTNEY, SCOTT CHARLES	
	<b>Examiner</b> Christopher J. Novosad	<b>Art Unit</b> 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, lines 1 and 2, the recitation "the left and right wing frame segments" lacks proper antecedent basis and should be corrected to --the left and right wing frame sections--.

In claim 6, lines 1 and 2, the recitation "the secondary bars" lacks proper antecedent basis. To correct this, claim 6 should be made to be dependent on claim 5, and therefore the examiner has treated the claim as such.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Olson.

With respect to claim 1, Olson shows a seeding machine 10 comprising:

A frame 12 (Fig. 1) having a center frame section 16,26,28 (Fig. 1) and left 18,30 and right 14 (col. 2, lines 20-22; misnumbered as 16 in Fig. 1),24 wing frame sections, the frame 12 having a planting configuration (Fig. 1) wherein the left 18,30 and right (col. 2, lines 20-22;

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misnumbered as 16 in Fig. 1), 24 wing frame sections extend transversely (Fig. 1) from the center frame section 16, 26, 28 and a transport configuration (Fig. 2; col. 3, lines 10-13) wherein the left 18, 30 and right (col. 2, lines 20-22; misnumbered as 16 in Fig. 1), 24 wing frame sections extend perpendicular to the center frame section 16, 26, 28,

the center frame section 16, 26, 28 and the left 18, 30 and right (col. 2, lines 20-22; misnumbered as 16 in Fig. 1), 24 wing frame sections each have a hollow toolbar 24, 26, 28, 30 forming a pneumatic manifold 24, 26, 28, 30;

individual planting units 20 being mounted via structure, unnumbered, in Fig. 2 to the toolbars 24, 26, 28, 30, each planting unit 20 comprising a pneumatic seed meter (col. 3, lines 34 and 35) and a furrow opener (unnumbered; Fig. 2);

the pneumatic manifold 24, 26, 28, 30 of the center frame section 16, 26, 28 being pneumatically coupled to each of the left 18, 30 and right (col. 2, lines 20-22; misnumbered as 16 in Fig. 1), 24 wing frame sections by a resilient bell 54, 56 or 60, 62, 64 that forms a closed pneumatic path (Fig. 4) between the center frame section 16, 26, 28 and the left 18, 30 and right (col. 2, lines 20-22; misnumbered as 16 in Fig. 1), 24 wing frame sections when the frame 12 is in its planting configuration (Fig. 1), the pneumatic manifolds 24, 26, 28, 30 being pneumatically coupled to the pneumatic seed meters (col. 3, lines 34 and 35) by air hoses (unnumbered; Figs. 1 and 2).

As to claim 2, Olson shows a forwardly extending draw bar (unnumbered; Fig. 1) indirectly extending from the center frame section 16, 26, 28.

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Regarding claim 3, the left 18,30 and right (col. 2, lines 20-22; misnumbered as 16 in Fig. 1),24 wing frame sections are folded forwardly from their planting configuration (Fig. 1) to their transport configuration (Fig. 2; col. 3, lines 10-13) along side the draw bar (unnumbered; Fig. 1).

With respect to claim 4, each toolbar 24,26,28,30 comprises a main toolbar 24,26,28,30 and a vertically displaced parallel secondary bar 14,16,18 that together form a truss.

#### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

#### ***Allowable Subject Matter***

Claims 5-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

It is noted that since the dependency of claim 6 should be from claim 5 to correct an antecedent basis problem as noted above, for examination purposes the examiner has considered claim 6 to depend from claim 5 (rather than from claim 1) and therefore, since claim 5 should be the parent claim, and since claim 5 defines over the Olson reference, claim 6 would also be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 703-308-2246. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher J. Novosad  
Primary Examiner  
Art Unit 3671

May 11, 2004